IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6943 OF 2005

Akbar Ali Adam Hawaldar ..Petitioner.
Versus
Smt. Jamilabi Kader Hawaldar & Ors. ..Respondents.

Mr. M.S. Kadu for the Petitioner.

CORAM : S. A. BOBDE, J.
DATED : 13TH OCTOBER, 2005.

P.C.:

1. By this petition the petitioner challenges the order below Exh. 13, passed at the instance of the respondent No.5 herein. The petitioner is a plaintiff who has sued the respondents for an injunction, restraining them from disturbing his possession over the suit property. The trial court has granted an injunction. Upon obtaining injunction, the petitioner has sought to erect fencing and for that purpose he has sought police protection. The respondent No. 5, who is defendant No.5, has filed an appeal in which he filed the present application Exh. 13, for restraining the petitioner from erecting the fencing pending suit. The appellate court came to the conclusion that the petitioner ought not be allowed to erect the fencing or make any other construction of gadga. The respondent No.5 had by this application at Exh. 13 sought an injunction restraining the plaintiff / petitioner from demolishing the existing

"gadga" and to construct a new one. Having considered the matter, the learned District Judge has allowed the Application Exh. 13, pending disposal of the appeal.

2. Having regard to the circumstances of the case, there is no reason to interfere with the impugned order. The order does not suffer from any perversity or jurisdictional infirmity. The petition is dismissed.

3. The learned District Judge is directed to decide the appeal as expeditiously as possible and in any case not later than six months from the date the petitioner appear before the court. The petitioner is directed to appear before the court on 14th November, 2005.

DT. 13.10.05 (S.A.BOBDE,J)

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